

State Candidates/Primarily Formed Committees Q&A

November 4, 2008 Election

1. *Must a contribution of \$1,000 or more received during the 90-day election cycle be reported within 24 hours if the contribution was received for a different election (for example, a contribution for the November election that is received during the 90 days prior to the June election)?*

A: Yes. A state candidate who is required to file electronically with the Secretary of State must file a report within 24 hours for any contribution of \$1,000 or more that is received during the 90 days before the candidate's name appears on the ballot for an elective state office.

2. *Are the electronic \$5,000 reports and \$1,000 election cycle reports required if a contribution is received by a state candidate's legal defense committee, officeholder committee, other state or local election committee, or a general purpose ballot measure committee?*

A: Yes. All controlled committees, except primarily formed ballot measure committees, must file these reports. For example, a general purpose ballot measure committee controlled by a state officeholder not seeking election in 2008 must file the \$5,000 report if the committee receives a contribution of \$5,000 or more during the calendar year. If the state officer is listed on the November 4, 2008 ballot, the general purpose ballot measure committee must file the \$1,000 reports beginning August 6, 2008.

3. *Must a state candidate listed on the November 4, 2008 ballot file pre-election statements for his or her legal defense committee, officeholder committee, other state or local election committees, or general purpose ballot measure committee?*

A: Yes. All committees, except primarily formed ballot measure committees, must file pre-election statements whenever the controlling candidate is required to file pre-election statements in connection with election to office.

4. *Must a non-controlled committee primarily formed to support or oppose a candidate for elective state office file the 24-hour online disclosure reports if it receives contributions of \$1,000 or more during the 90 days before the election?*

A: No. However, if a committee makes an independent expenditure of \$1,000 or more to support or oppose a state candidate or state ballot measure during the 90 days prior to the election, electronic or online reports may be triggered. Additionally, during the 16 days prior to an election, the committee

may be required to file late contribution reports or late independent expenditure reports.

5. *Must a committee that files the online independent expenditure report within 24 hours during the 90 days prior to an election also file the Supplemental Independent Expenditure Report (Form 465)?*

A: Yes. The online independent expenditure report does not replace, but is in addition to, the supplemental independent expenditure report.

6. *A state officeholder controls three committees, one formed for the current term of office, a re-election committee and a general purpose ballot measure committee. If one of the committees must file a Supplemental Independent Expenditure Report (Form 465) in connection with the June election, must the other committees also file a report?*

A: No. Only the committee that triggers the Form 465 must file. The report must be filed with the Secretary of State, the City and County of San Francisco, the County of Los Angeles, and the candidate's county of domicile. The filing location addresses can be found on the FPPC web site at the following link: <http://www.fppc.ca.gov/index.html?id=19>

7. *Must a committee file a Supplemental Independent Expenditure Report (Form 465) if an independent expenditure supports or opposes multiple ballot measures?*

A: Yes, but only if \$1,000 or more was expended to support or oppose each ballot measure in the independent expenditure. A separate Form 465 must be filed for each measure supported or opposed.

8. *Must a candidate file a late independent expenditure report for payments made by the candidate's controlled committee on his/her behalf during the 16 days prior to the election?*

A: No. An "independent expenditure" is a payment made by a third party to support or oppose a candidate – and which is not made in coordination or consultation with the candidate. Therefore, payments made from the candidate's own controlled committee would not be considered "independent expenditures" if they were made on his or her behalf, even if they were made in opposition to the candidate's opponent. In addition, Gov. Code section 85501 prohibits a candidate's controlled committee from making independent expenditures to support or oppose other candidates.

9. *If a committee makes a \$5,000 contribution to a primarily formed committee supporting a state ballot measure during the late reporting period and*

files a late contribution report within 24 hours, must the committee also file a \$5,000 Ballot Measure Expenditure Report within 10 days?

A: The committee must file Form 497 – Part 2 within 24 hours of making the contribution and file with the Secretary of State (electronically and on paper), the Department of Elections for San Francisco and the Registrar-Recorder of Los Angeles County (fax, guaranteed overnight delivery, or personal delivery). On the electronic Form 497 filed with the Secretary of State, the committee may include Part 1 disclosing contributions received from the day after the closing date of the last campaign report filed through the date of the contribution that triggered the Form 497. This will satisfy the requirement to file the \$5,000 ballot measure report under Government Code Section 84204.5 and the late contribution report required under Government Code Section 84203. Do not include Part 1 with late contribution reports filed on paper.